## Zavislan CP

Counterplan Text: The United States should legalize marijuana.

It’s mutually exclusive. Rehab mandates reforming drug abusers. Legalization is grounded in the retributive idea that drug users don’t hurt anyone, so they don’t deserve punishment. **Bradley 12**[[1]](#footnote-1)

From the ever-expanding number of federal criminal laws to prison sentences that are too numerous or too long, there are many promising bases for criticizing overcriminalization. One such basis, however, has yet to be fully exploited for its potential to limit overcriminalization: the fact that **too many** criminal **offenses** today **are** malum prohibitum offenses—that is, they criminalize conduct that is **morally innocuous—and do not contain** an adequate mens rea (**criminal**-**intent**) element. These offenses often capture conduct that would otherwise be natural and even desirable in business, commerce, accounting, or everyday life. The primary instances discussed throughout this paper are strict liability regulatory offenses (referred to as the “central case”).[[1]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn1) In order to limit the growth of laws criminalizing morally innocuous conduct—a development which, in turn, would curb overcriminalization—the U.S. legal community would be well-served to explore the concept of retribution and the manner in which it provides an account of how punishing those convicted of criminal offenses is morally justified. Indeed, punishment without a firm basis in retribution is unjust and therefore should be avoided. Using the principle of retribution to critique overcriminalization may seem paradoxical for two separate reasons. The first arises from widespread and sometimes grotesque misunderstandings of retribution, such that it is often caricatured to mean lock up as many people as possible for very long times. In truth, however, retribution has no built-in tendency toward severity. The second criticism arises from the fact that retribution is a justification for punishment and not a theory about substantive criminal law. But what justifies also limits. **Retribution offers solid** moral **bases for opposing overcriminalization.** Criticisms and Confusion: Toward a Proper Understanding of Retribution Confusion about retribution, and about the moral justification for punishment more generally, is rampant. Almost nothing in standard first-year criminal law casebooks gets it right.[[2]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization#_ftn2) Scholarly literature is scarcely more helpful. Legislative reformers rarely understand it and, by all accounts, never accord it the central place that it needs to occupy if the institution of punishment is to be adequately justified. High state court authority is just as confused. This widespread misunderstanding is one reason why retribution is so neglected today. Indeed, if retribution really did mean what people seem to think it means, then it ought to be neglected. But **retribution is not**lex talionis, the law of retaliation—**“an eye for an eye**”[[3]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn3)—as many think it is. To apply the “eye for an eye” norm non-metaphorically, a polity would have to be willing to do whatever its most depraved members might do. Probably no society has so abandoned moral constraint in the pursuit of criminal justice. It is true that “eye for an eye” is found in the Bible and was apparently meant to serve as a practical guide for the ancient Israelites, but biblical scholars have explained that the “eye for an eye” axiom was not an authorization of punishment or even a command to exact a like penalty. It was instead meant to limit retaliatory acts by kin and friends of the victim to no more than the loss incurred.[[4]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn4) The historical prevalence and perennial allure of retaliatory excess—vendettas, blood feuds, lynchings, and the like—no doubt had much to do with the emergence of public systems of criminal justice. According to Oxford legal philosopher John Gardner, it was “for the elimination of these modes of retaliation, more than anything else, the criminal law as we know it today came into existence.”[[5]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn5) Even so, society must distinguish between this—what Gardner calls the “displacement function” of criminal law and punishment—and its critical moral justification. For there is no necessary connection, either logically or practically, between a practice’s origins and its critical moral worth. It is easy to see, too, that the “displacement function” cannot morally justify defining some conduct as a crime or imposing criminal punishment on anyone. Notwithstanding some historical kinship with retaliation, retribution properly understood as a critical moral proposition is not about domesticating popular hatred for a known criminal. It is not about channeling repugnance toward a particularly heinous crime. It is not state-orchestrated revenge. Retribution is not driven by anger, hatred, or any other emotion; it is distinct from community outrage. It is perhaps admissible to hold that these pacific tendencies are one desired effect or function of punishment, but that is not to say that retribution’s tendency to pacify the passions of victims of crime and their communities constitutes a moral justification for punishment: It certainly does not. Mob-conducted lynchings and similar acts of cruelty and injustice are also capable of pacifying community outrage for (real or perceived) wrongdoing, but civilized society condemns such conduct. Against the Transfer Justification of Punishment H.L.A. Hart, one of the leading legal philosophers of the 20th century, famously argued that society may impose punishment on an offender only where society has been “harmed.” He identified two types of harms: where the authority of law is diminished and where a member of society is injured.[[6]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn6) Hart's first category could be mistaken for an awkward description of the retributive view described here, but his view of crime and punishment was very different from the one that is considered in this paper. Hart’s second harm—that a member of society is injured—points toward a deeper investigation of the moral relationship between the institution of punishment and private rights. Hart is scarcely alone in holding this view. Richard Swinburne has argued that the state enjoys authority to impose punishment for criminal harm only where it serves as a proxy for the individual victim,[[7]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn7) and he said that this was a retributive viewpoint. Swinburne and Hart apparently imagine a state of nature similar to that described by John Locke: a notional place where individuals hold a natural moral right to punish those who harm them.[[8]](http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization" \l "_ftn8) When these individuals band together to form a civil society, these thinkers (Swinburne, Hart, and perhaps Locke) suppose that they transfer their natural authority to punish to the emergent political authority, so the state punishes as agent or delegate of the community—conceived as an aggregate of individual rights-bearers, now standing down. This whole line of thought is mistaken. Civil society does not punish as transferee or delegate of the victim. Civil society punishes in its own name for its own sake because civil society itself is the victim of each and every crime. Indeed, central political authority and its authoritative directives for the common good—laws—are a necessary precondition to and are conceptually derived from the institution of punishment. There are two additional compelling arguments against the transfer justification of punishment theory. First, as a matter of contingent fact, criminal acts often do involve an injustice to one or more specific persons: the defrauded elderly lady, the black-eyed assault victim, the hapless pedestrian whose car was stolen. But **many crimes lack any** such unwilling, **particular**ized **victim. Among these offenses are** many public morals laws (**drug possession**, gambling, and prostitution); offenses against the state (including treason, espionage, and lying to the grand jury); and “quality of life” crimes (littering and public intoxication)

The counter-plan turns overcrowding, crime, and spending.

Evans 4:**[[2]](#footnote-2)**

Prisons are desperately overcrowded. **Why** is this? The answer becomes clear when you recognize that eight out of ten people in prison are there for drug-related crimes, and half of them are non-violent offenders, at least according to the 2003 Connecticut Department of Corrections Report on Overcrowding. In short, if not for drug laws, we would not have overcapacity in our prisons. The purpose of drug laws is to prevent people from using these drugs. Clearly, it’s not working, because people are still using drugs. Going to prison is not a deterrent; in fact it’s just causing unnecessary problems. Just like the failed prohibition of alcohol in the 1920’s, which only produced more crime and corruption, drug laws today are creating more crime than they are preventing. According to the book Social Problems by D. Stanley Eitzen and Maxine Baca Zinn, “punitive drug laws encourage organized crime by making importation, processing, and distribution of illegal drugs extremely lucrative and people selling illicit drugs will often corrupt the police.” Like today’s drugs laws, Prohibition failed because, so long as there’s a demand, people will find a way to fill it. They’ll make money doing it, and bribe every official along the way. By making it illegal, we lose our ability to regulate its use to minimize the harm and protect the innocent. Many people would say these laws are a good idea because drugs are bad for you. Perhaps, but if that’s reason enough to make something illegal then why can I buy a bottle of alcohol, a pack of cigarettes and a McDonald’s Happy Meal? As much as we don’t want people to harm themselves, we recognize that it’s not necessarily a threat to society, and hence, not a crime. If anything, drug use is a victimless crime, but the laws against it make victims out of users. Drug laws are causing other problems besides overcrowded prisons. They affect minorities more than they do white people. Drugs that are considered black, such as crack, carry much harsher sentencing than drugs that are attributed to white users. Human Rights Watch reported that blacks are incarcerated nearly twice as much as whites for drug offenses, even though there are five times as many white drug users. The system is overworked, overcrowded, and desperately unjust. By legalizing drugs or decriminalizing them we also eliminate the need for the crime and violence that is currently being used to import them into this country. Legal drugs would be cheaper, allowing people to pay for them without sinking to prostitution or mugging. We have a way to lower crime and racism, provide significant human rights boons to a portion of the population, and have a whole new tax base. It’s criminal of us not to take advantage of such an easy step up. Drug laws at this point are doing more harm than good. So why are we throwing people in jail? The answer is to be found by looking at who really benefits from this policy. Running prisons is big business. It’s also something that the government is increasingly privatizing, putting our civil rights in the hands of for-profit companies. The Corrections Corporation of America is one of the largest privately held companies that run prisons across the country, according to Yahoo News. They house about 63,000 inmates in 20 states and the District of Columbia. At their last stockholders meeting they told investors that the demographic producing many prisoners -- males between 18 to 24 years old -- is growing and should create more demand for its services. According to Reese Erlich, author of Prison Labor: Working For the Man, many prisons, privately run and otherwise, are making money by putting their inmates to work. It’s not quite slavery, but prisoners who refuse to work lose privileges and don’t get time off for good behavior. The work they do for much below minimum wage takes jobs away from citizens who aren’t imprisoned, and when laws prevent these cheap, prison-made goods from being sold in America, the prisons just export them to foreign countries. If we want to make a profit off of drugs, we could be selling them legally. Not only would this make up from the lost tax base from the smaller prisons, but we could insure safer drugs through regulation. The revenue alone could pay for rehabilitation of addicts, with enough left over to go to public schools. When alcohol was illegal, there was no way to regulate it, so some unscrupulous people sold tainted good, such as wood alcohol, which can blind or kill you. Right now, this is the situation for drugs, where it’s common for sellers to cut their wares with something cheaper to stretch out their stock. Drugs don’t have to be as dangerous as there are. After a two year exhaustive study in Canada to determine the benefits of legalization, marijuana was found to have no more negative effect than alcohol or cigarettes, and with stringent government standards it could become much safer. Of course, marijuana is not the only drug, but I think that we need to be consistent in our public policy. We need to examine closely the effects of all drugs, see how we can make them safer, and see if there is a way to prevent them from overcrowding our prisons**.**

Only the counter-plan can solve overcrowding. Most prisoners are in for drug crimes. **Devine 12** writes[[3]](#footnote-3)

**Legalization would** also **decrease** prison **over-crowding.** According to a 2004 study, **1.4 million prisoners in the U**nited **S**tates **were held because of** drug-related **marijuana** related charges**. That was 55 percent of** the **total** population of **prisoners**  at the time**.** With prisons continuing to overcrowd and more and more money being spent on maintaining prisoners, **legalization would make room for prisoners who commit more serious violent crimes** and decrease total government spending.

Counterplan avoids the link to politics. Legalizing marijuana is popular in Congress.

**Seitz-Wald 2/8**[[4]](#footnote-4)

In 1973, Oregon rode the hippie wave to became the first state in the country to decriminalize possession of small amounts of marijuana. Within five years, eight other states had followed, but momentum soon lagged, and then reversed in the Reagan era. Lately, however, it’s beginning to feel like the ’70s again, with **numerous polls showing a majority of Americans in favor of legalizing marijuana and** the **recent referenda in Colorado and Washington** to **do just that. Earl Blumenauer** voted on that first decriminalization bill 40 years ago in Oregon — as a “child legislator,” he jokes — and now that he’s in Congress representing the state, he thinks we’re approaching a moment where things are about to speed up very quickly for drug policy reform advocates. “It’s just come to a head,” he told Salon Thursday afternoon. “This is largely going to be resolved in the next five years.” Blumenauer**, along with Colorado** Democratic **Rep.** Jared **Polis, introduced legislation** this week **to make the federal gov**ernment **treat cannabis like alcohol** and let states decide whether to keep it illegal. And **they think they have a real chance of getting somewhere** this time. This is hardly the first time lawmakers have introduced legislation to decriminalize or legalize marijuana in Congress. Massachusetts liberal Democrat Barney Frank and Texas libertarian Republican Ron Paul worked together on a number of legalization bills, but both have now left Congress and passed the torch. “They were very busy people with financial reform and running for president, and I think we have an opportunity this time for some added focus from a number of members of Congress,” he said, noting Frank was a lead author of the Dodd-Frank Wall Street reform bill and Paul was busy being Paul. **“I think we are in a position now to have** a group of **members of Congress** who are able to spend a little more time and energy in a **focus**ed way **on this.** I think we’ve got a little bit more running room; I think **our coalition is broader, and we’ve got people who have not normally been involved in this,” he added**, pointing to more conservative members from Colorado who now care about marijuana after the state legalized it in the fall. On top of **his and Polis’ bills** (which **tax marijuana and end the federal prohibition on it**, respectively), he said he anticipates “about a dozen” different pieces of legislation dealing with drug policy reform moving forward. With “a number of folks” already working together in an informal working group, he explained, “We’ve got more people working more systematically.” He declined to elaborate on other members, saying they would be making public statements in the coming months.

## Spending DA

US economic competitiveness is declining now. Investment in education is key.

**Cooper et al. 12**[[5]](#footnote-5)

**The** U.S. **economy is weakening relative to our global competitors.** Recent economic growth is 40 percent below any other growth period since World War II as other economies around the globe draw in more investment, both foreign and domestic. In contrast, despite still being the world’s leading recipient of direct foreign investment, business investment overall in the United States between 2001 and 2007 was the slowest in U.S. history. Meanwhile, competition is on the rise. From 1980 to 2011 **China increased** its share of world economic **output** from 2 percent to 14 percent. **And India more than doubled** its output during that period, from 2.5 percent of global production to 5.7 percent. The U.S. share of the world economy fell to 19 percent from 25 percent. While increasing global competition is inevitable, lackluster U.S. performance need not be. Indeed, rising growth and incomes in other countries present potential new opportunities and markets for American workers and companies. But if the United States means to continue to lead the world and to share our prosperity with it, U.S. policymakers must deploy an American strategy that is responsive to modern economic challenges—a strategy that makes it possible for every American family to ensure that children entering adulthood are prepared to find a successful place in the global economy. What should the strategy be? Economists of all stripes point to a robust pipeline of skilled workers as the essential ingredient of a strong and growing economy. Indeed, the two countries most rapidly gaining on the United States in terms of economic competitiveness—**China and India**—**have ambitious national strategies of** investing and **promoting** improved **education**al outcomes for children to strengthen their positions as contenders in the global economy. This is obviously a sweeping and complex topic, which we document in detail in the main pages of this report. But here is a brief summary of the report’s findings and recommendations. The U.S. competitiveness problem and the case for investing in children Competition from rapidly growing countries such as China and India are changing business norms and the links between national economies. We are quite familiar with what economists call “global labor arbitrage,” the substitution of high-wage workers in advanced economy countries with low-wage workers in developing economies. That’s led to a global re-ordering of production, jobs, and growth. More recently, **tech**nological **advances** in telecommunications and transportation, as well as **[and] skills development in the developing world**, are **drag**ging more **U.S. industries**—including computer programming, high-tech manufacturing, and service sectors—**into international competition.** This development is feeding a mounting demand for high-skilled labor around the world. To position the United States for the future, substantial investments are needed in research, infrastructure, and education. The most important of these areas to address is education. Why? Because as this report shows, the **overwhelming** economic **evidence points to education**—and human capital investments, generally—**as the key driver**s **of** economic **competitiveness in the long term.** Harvard University economist Gregory Mankiw, for example, has shown that **in** advanced countries such as **the U**nited **S**tates, **human capital investment had three times the positive effect on economic growth as did physical investment.** And educational investment is particularly important in early childhood development and learning, according to growth economists. The return on investment from interventions such as prenatal care and early childhood programs is higher than for virtually any class of financial assets over time, according to Nobel Prize winning economist James Heckman. The academic literature also shows that failing to provide broad opportunities for nurturing, learning, and productive development harms economic growth and national competitiveness.

Rehab costs a lot of money long-term. **Forrest 11**[[6]](#footnote-6)

The theory of rehabilitation means that, at least in Maryland, every prisoner—even those serving life without parole—must have the chance to earn a GED. Since many are barely literate, in some cases that would be close to 12 grades of education. Rehabilitation also means drug abuse treatment, and countless classes in such things as parenting and anger management that are intended to turn people away from crime. Many institutions have production facilities such as metal, wood, and upholstery shops, where criminals get vocational training (and can find raw material for weapons). There is even an office technology program where inmates learn about computers. This **commitment to “rehab**ilitation**” means that** although Americans think they see realistic depictions of prison life in television programs, such as Lockup, there is a great deal they never see. Most taxpayers would be surprised to learn that some convicted murderers and rapists have televisions and Sony Play Stations in their cells. They would be surprised to learn that prisoners can subscribe to pornographic magazines. “Rehabilitation” does not end at the prison gates. When an inmate is released, **taxpayers** continue to **pay for** what is supposed to be a **transition** back **to civilian life. Released cons get new ID cards** issued by the Motor Vehicles Administration **and** duplicate birth certificates and **social security cards**. There is **also a whole range of services to help** prisoners with **job placement, medical treatment, and housing**. Federal law requires that inmates get one hour outside their cells every day, but it is only prisoners in administrative or disciplinary segregation who get no more than that (see “Integration at its Worst,” AR, Nov. 2009). In Maryland, everyone else gets two outdoor recreation periods of one or two hours, as well as an indoor rec period. Besides that, there are prison jobs that run from cooking to janitor work to plumbing and electrical repairs. And, of course, inmates get food, shelter, and medical care—**all provided at tremendous cost** to Maryland’s heavily burdened taxpayers. Needless to say, **none of this stops inmates from complaining** about their treatment**.** It makes no difference what they get from us; **they always want more. The thought that some** hard-working **stiff has to pay for it does not cross their minds.** It’s not enough to have cable television; they insist on certain channels. It’s not enough to have better medical care than many honest citizens on the outside; they want to tell the doctors how to treat them. Gratitude is alien to these people.

Criminal justice spending directly trades off with investment in education. Cost-effectiveness is key. **Ambrosio and Schiraldi 97[[7]](#footnote-7)**

4. Require a fiscal impact statement before implementing major crime policies. **C**riminal **j**ustice **spending must be cost-effective so it does not drain** resources **from** other vital programs like higher **education.** Unfortunately, over the last fifteen years, the massive **expansion of the c**riminal **j**ustice **s**ystem **has come at the expense of higher education**, and other programs. To ensure a better balance in criminal justice spending, all proposed changes in crime policy must be accompanied by a fiscal impact statement. This statement should be similar to a business plan. It should state how much the initiative will cost, how it will be paid for, and its expected rate of return. **Policy makers need to consider the entire budget when implementing crime policy** because a state that builds a new prison has less money to spend on education programs. The entire system must be evaluated when implementing costly crime policies. 5. Invest in the future of children, families and communities. We must not lose sight of the fact that our children, our families and our communities are the essence of America. Unfortunately, current criminal justice policies are detracting from our investments in the youth of America. As more prisons are built to house low-level nonviolent offenders, more children are denied access to higher education, unable to afford exorbitant tuition costs. **As** state **corrections budgets increase, investments in higher education decrease.** Current corrections policies are draining the lifeblood from America's youth. **We need an immediate shift in priorities** from funding prisons to funding higher education.

Empirics prove that competitiveness creates economic hegemony which solves global conflict. **Hubbard 10** writes[[8]](#footnote-8)

Research into the theoretical underpinnings of this topic revealed that there are two main subfields within the literature on hegemonic stability. One line of study, an avenue pursued by prominent theorists such as Kindleberger, Keohane, and Ikenberry focuses primarily on questions of related to the economic system. The other avenue, pursued by theorists such as Gilpin, looks at the role of hegemonic governance in reducing violent conflict. In my research, I focus on this aspect of hegemonic stability – its implications for military conflict in the international system. To research this question, I undertook a broad quantitative study that examined data from both the American and British hegemonic epochs, focusing on the years of 1815-1939 in the case of British hegemony, and 1945 to 1999 in the case of American hegemony. I hypothesized that hegemonic strength was inversely correlated with levels of armed conflict in the international system. Using the data from the Correlates of War Project, I was able to perform a number of statistical analyses on my hypothesis. To measure hegemonic strength, I used the Composite Index of National Capability, a metric that averages together six different dimensions of relative power as a share of total power in the international system. **I** then **matched this data with data cataloging all conflicts** in the international system **since 1815**. I organized this data into five-year increments, in order to make statistical analysis more feasible. **Regression** analysis of the data **revealed** that there was **a statistically significant negative correlation between** relative **heg**emonic power **and conflict** levels in the international system. However, further statistical tests added complications to the picture of hegemonic governance that was emerging. Regression analysis of military actions engaged in by the hegemon versus total conflict in the system revealed a highly positive correlation for both American and British hegemony. Further **analysis revealed** that in both cases, **military power was a less accurate predictor of** military **conflict than economic power**. There are several possible explanations for these findings. It is likely that economic stability has an effect on international security. In addition, **weaker hegemons are more likely to be challenged militarily** than stronger hegemons. Thus, the hegemon will engage in more conflicts during times of international insecurity, because such times are also when the hegemon is weakest. Perhaps the **most important** implication of this research **is that hegemons may well be more effective in promoting peace through economic power** than through the exercise of military force. II. Research Question In examining hegemonic stability theory, there are several important questions to consider. First of all, an acceptable definition of what constitutes a hegemon must be established. Secondly, a good measure of what constitutes stability in the international system must be determined. Certainly, the frequency and severity of interstate conflict is an important measure of stability in the international system. However, other measures of stability should also be taken into account. Conflict in the international system takes on a wide range of forms. While military conflict is perhaps the most violent and severe dimension, it is only one of many forms that conflict can take. Conflict need not be confined to wars between traditional states. Terrorism, piracy, and guerilla warfare are also types of conflict that are endemic to the international system. Economic conflict, exemplified by trade wars, hostile actions such as sanctions, or outright trade embargos, is also an important form of conflict in the international system. States can also engage in a range of less severe actions that might be deemed political conflict, by recalling an ambassador or withdrawing from international bodies, for example. Clearly, “stability” as it pertains to the international system is a vast and amorphous concept. Because of these complexities, a comprehensive assessment of the theory is beyond the purview of this research. However, completing a more focused analysis is a realistic endeavor. Focusing on international armed conflicts in two select periods will serve to increase the feasibility the research. I will focus on the period of British hegemony lasting from the end of the Napoleonic wars to 1939 and the period of American hegemony beginning after the Second World War and continuing until 1999, the last year for which reliable data is available. The proposed hypothesis is that in these periods, the **heg**emon **acted as a stabilizing force** by reducing the frequency and severity of international armed conflict. The dependent variable in this case is the frequency and severity of conflict. The primary independent variable is the power level of the hegemon. This hypothesis is probabilistic since it posits that the hegemon tended to reduce conflict, not that it did so in every single possible instance. One way to test this hypothesis would be through a case-study method that examined the role of Britain and the United States in several different conflicts. This method would have the advantage of approaching the problem from a very feasible, limited perspective. While it would not reveal much about hegemony on a broader theoretical level, it would help provide practical grounding for what is a highly theoretical area of stuffy in international relations. Another method would be to do a broader quantitative comparison of international conflict by finding and comparing data on conflict and hegemonic strength for the entire time covered by British and American hegemony. The hypothesis is falsifiable, because it could be shown that the hegemon did not act as a stabilizing force during the years of study. **It** also **avoids** some of **the pitfalls** associated **with the case study method, such as selection bias and** the inherently **subjective** nature of **qualitative analysis.**

## Nuclear Accidents DA

Expunging criminal records prevents the nuclear power industry from confirming that their employees are actually trustworthy. **Adams 12**[[9]](#footnote-9)

Please, Fairfield County council and sheriff, whatever you do, **do not** even **think about expunging criminal records. The nuclear industry values honesty and dependability more than** almost **any other characteristics** in its work force for very good reasons. We do not just worry about “violent” crimes, but about records that indicate a lack of fundamental integrity. **It would be** far **better for someone to provide accurate details about their youthful indiscretions and what actions they have taken to ensure that they never happen again than to fail to accurately report them.**

If there is a pattern of misbehaving, there is a good reason why that person is not a good fit for the nuclear industry.

It would be beneficial for the people of your county if nuclear industry employers could count on your records being accurate. It would be terribly detrimental if there is even a hint that the records might have been purged to make local people look better. Just think how that knowledge would affect those people in your county who did not run into any scrapes with the law. Do you think it is possible that employers would start looking elsewhere in order to lower the possibility of hiring someone whose skeletons might be found out later?

In small towns, people have long memories. It seems likely to me that there will always be people who remember youthful indiscretions. If I was an employer, I would be worried about the risk of having **someone with an expunged record on** my **payroll** – they **might live in fear that someone will tattle at any time.** It’s even possible that the **knowledge of what used to be in the record could be used as** a **blackmail** tool.

Employee background checks are key to preventing accidents. **Resner 12**[[10]](#footnote-10)

As part of the program, all employees are required to report to their supervisors any suspicious behavior they see among their coworkers. **Suspicious behavior could be a worker** observed **in an area of the plant where they don’t have authorization to be, or if a worker made threatening statements about harming people or plant equipment.**

The NRC regulations even require workers to report on themselves or “self-disclose” if they, for whatever reason, believe they are no longer mentally and physically fit to safely perform their duties. An example of this is an employee undergoing marital problems that are causing them stress that interferes with their duties. Such an employee may be referred to an Employee Assistance Program or their assigned duties may be changed until the person is deemed fit for duty.

If a determination is made to deny the person unescorted access for any reason, their name and that fact is entered into an information sharing database that NRC requires all U.S. nuclear power plants to use. Should that person attempt to enter (or get a job at) another nuclear plant, the information about their access status would be available for review by the plant they were attempting to access. Ultimately, a **determination that an employee is not trustworthy** or reliable – based on behavior observation or self reporting — has serious implications for that person maintaining their access authorization but such determinations are **[is] necessary to keep nuclear power plants operating safely** in their communities.

Nuclear accidents risk extinction. **Lendman 11**[[11]](#footnote-11)

For years, Helen Caldicott warned it's coming. In her 1978 book, "Nuclear Madness," she said: "As a physician, I contend that **nuclear tech**nology **threatens** life on our planet with **extinction.** If present trends continue, **the air we breathe, the food we eat, and the water we drink will soon be contaminated** with enough radioactive pollutants to pose a potential health hazard **far greater than any plague humanity has ever experienced.**" More below on the inevitable dangers from commercial nuclear power proliferation, besides added military ones. On March 11, New York Times writer Martin Fackler headlined, "Powerful Quake and Tsunami Devastate Northern Japan," saying: "The 8.9-magnitude earthquake (Japan's strongest ever) set off a devastating tsunami that sent walls of water (six meters high) washing over coastal cities in the north." According to Japan's Meteorological Survey, it was 9.0. The Sendai port city and other areas experienced heavy damage. "Thousands of homes were destroyed, many roads were impassable, trains and buses (stopped) running, and power and cellphones remained down. On Saturday morning, the JR rail company" reported three trains missing. Many passengers are unaccounted for. Striking at 2:46PM Tokyo time, it caused vast destruction, shook city skyscrapers, buckled highways, ignited fires, terrified millions, annihilated areas near Sendai, possibly killed thousands, and caused a nuclear meltdown, its potential catastrophic effects far exceeding quake and tsunami devastation, almost minor by comparison under a worst case scenario. On March 12, Times writer Matthew Wald headlined, "Explosion Seen at Damaged Japan Nuclear Plant," saying: "Japanese officials (ordered evacuations) for people living near two nuclear power plants whose cooling systems broke down," releasing radioactive material, perhaps in far greater amounts than reported. NHK television and Jiji said the 40-year old Fukushima plant's outer structure housing the reactor "appeared to have blown off, which could suggest the containment building had already been breached." Japan's nuclear regulating agency said radioactive levels inside were 1,000 times above normal. Reuters said the 1995 Kobe quake caused $100 billion in damage, up to then the most costly ever natural disaster. This time, from quake and tsunami damage alone, that figure will be dwarfed. Moreover, under a worst case core meltdown, all bets are off as the entire region and beyond will be threatened with permanent contamination, making the most affected areas unsafe to live in. On March 12, Stratfor Global Intelligence issued a "Red Alert: Nuclear Meltdown at Quake-Damaged Japanese Plant," saying: Fukushima Daiichi "nuclear power plant in Okuma, Japan, appears to have caused a **reactor meltdown**." Stratfor downplayed its seriousness, adding that such an event "does not necessarily mean a nuclear disaster," that already may have happened – **[is] the ultimate nightmare short of nuclear winter.** According to Stratfor, "(A)s long as the reactor core, which is specifically designed to contain high levels of heat, pressure and radiation, remains intact, the melted fuel can be dealt with. If the (core's) breached but the containment facility built around (it) remains intact, the melted fuel can be....entombed within specialized concrete" as at **Chernobyl** in 1986. In fact, that disaster **killed nearly one million** people worldwide from nuclear radiation exposure. In their book titled, "Chernobyl: Consequences of the Catastrophe for People and the Environment," Alexey Yablokov, Vassily Nesterenko and Alexey Nesterenko said: "For the past 23 years, it has been clear that there is a danger greater than nuclear weapons concealed within nuclear power. Emissions from this one reactor exceeded a hundred-fold the radioactive contamination of the bombs dropped on Hiroshima and Nagasaki." "No citizen of any country can be assured that he or she can be protected from radioactive contamination. **One nuclear reactor can pollute half the globe. Chernobyl fallout covers the entire Northern Hemisphere."** Stratfor explained that if Fukushima's floor cracked, "it is highly likely that the melting fuel will burn through (its) containment system and enter the ground. This has never happened before," at least not reported. If now occurring, "containment goes from being merely dangerous, time consuming and expensive to nearly impossible," making the quake, aftershocks, and tsunamis seem mild by comparison. Potentially, **millions of lives will be jeopardized.** Japanese officials said Fukushima's reactor container wasn't breached. Stratfor and others said it was, making the potential calamity far worse than reported. Japan's Nuclear and Industrial Safety Agency (NISA) said the explosion at Fukushima's Saiichi No. 1 facility could only have been caused by a core meltdown. In fact, 3 or more reactors are affected or at risk. Events are fluid and developing, but remain very serious. **The possibility of an extreme catastrophe can't be discounted.** Moreover, independent nuclear safety analyst John Large told Al Jazeera that by venting radioactive steam from the inner reactor to the outer dome, a reaction may have occurred, causing the explosion. "When I look at the size of the explosion," he said, "it is my opinion that there could be a very large leak (because) fuel continues to generate heat." Already, Fukushima way exceeds Three Mile Island that experienced a partial core meltdown in Unit 2. Finally it was brought under control, but coverup and denial concealed full details until much later.

### Optional Prolif Impact

High security standards for nuclear power are key to solve global prolif.

**Cunningham 12** writes[[12]](#footnote-12)

Second, **the U.S. has played a fundamental role in** building the nuclear **non-prolif**eration regime. Beginning with President Eisenhower and the “Atoms for Peace” plan, the U.S. has supported the peaceful use of nuclear power while preventing the spread of nuclear weapons. The Nuclear Regulatory Commission (NRC) is the leading licensing and regulatory body for nuclear industry worldwide, and it sets the standard for safety that other countries follow.. Not only does **the U.S. “export”** high **safety standards** in its reactor designs, but through 123 Agreements it **[and] requires rigorous non-prolif**eration **measures** as a requirement of doing business with American nuclear companies. **With China expected to** more than **triple the number of** installed nuclear **reactors** between 2011and 2015, **the U.S. may become less relevant** in ensuring adequate safeguards against weapons proliferation. 6 **A strong domestic nuclear industry will** better **position the U.S. to lead** on this issue.

Prolif is the largest existential threat.

**Miller 02** writes[[13]](#footnote-13)

The U.S. should use whatever means necessary to stop our enemies from gaining the ability to kill millions of us. We should demand that countries like Iraq, Iran, Libya, and North Korea make no attempt to acquire weapons of mass destruction. We should further insist on the right to make surprise inspections of these countries to insure that they are complying with our proliferation policy. What if these nations refuse our demands? If they refuse we should destroy their industrial capacity and capture their leaders. True, the world's cultural elites would be shocked and appalled if we took preventive military action against countries that are currently doing us no harm. What is truly shocking, however, is that America is doing almost nothing while countries that have expressed hatred for us are building weapons of mass destruction. France and Britain allowed Nazi Germany's military power to grow until Hitler was strong enough to take Paris. America seems to be doing little while many of our foes acquire the strength to destroy U.S. cities. **We can't rely upon deterrence** to prevent an atomic powered dictator from striking at us. Remember, the Nazi's killed millions of Jews even though the Holocaust took resources away from their war effort. As September 11th also shows, **there exist evil men** in the world **who would gladly sacrifice all other goals** for the opportunity **to commit mass murder.** The U.S. should take not even the slightest unnecessary chance that some dictator, perhaps a dying Saddam Hussein, would be willing to give up his life for the opportunity to hit America with nuclear missiles. **Once a dictator has** the ability to hit a U.S., or perhaps even a European city, with **atomic weapons it will be too late** for America **to pressure him** to give up his weapons. **His ability to hurt us will** effectively **put him beyond** our **military reach.** Our conventional forces might even be made impotent by a nuclear-armed foe. Had Iraq possessed atomic weapons, for example, we would probably have been unwilling to expel them from Kuwait. What about the rights of those countries I have proposed threatening? America should not even pretend to care about the rights of dictators. In the 21st century the only leaders whom we should recognize as legitimate are those who were democratically elected. The U.S. should reinterpret international law to give no rights to tyrants, not even the right to exist. We should have an ethically based foreign policy towards democratic countries. With dictatorships, however, we should be entirely Machiavellian; we should deal with them based upon what is in our own best interests. It's obviously in our self-interest to prevent as many dictators as possible from acquiring the means to destroy us. We shouldn't demand that China abandon her nuclear weapons. This is not because China has proved herself worthy to have the means of mass annihilation, but rather because her existing stockpile of atomic missiles would make it too costly for us to threaten China. It's too late to stop the Chinese from gaining the ability to decimate us, but for the next ten years or so it is not too late to stop some of our other rivals. If it's politically impossible for America to use military force against currently non-hostile dictators then we should use trade sanctions to punish nations who don't agree to our proliferation policy. Normal trade sanctions, however, do not provide the punishing power necessary to induce dictators to abandon their arms. If we simply don't trade with a nation other countries will sell them the goods that we used to provide. To make trade sanctions an effective weapon the U.S. needs to deploy secondary boycotts. America should create a treaty, the signatories of which would agree to: • only trade with countries which have signed the treaty, and • not trade with any country which violates our policy on weapons proliferation. Believe that if only the U.S. and, say, Germany initially signed this treaty then nearly every other country would be forced to do so. For example, if France did not sign, they would be unable to trade with the U.S. or Germany. This would obviously be intolerable to France. Once the U.S., Germany and France adopted the treaty every European nation would have to sign or face a total economic collapse. The more countries which sign the treaty, the greater the pressure on other countries to sign. Once most every country has signed, any country which violated America's policy on weapons proliferation would face almost a complete economic boycott. Under this approach, the U.S. and Germany alone could use our economic power to dictate the enforcement mechanism of a treaty designed to protect against Armageddon. **Even the short-term survival of humanity is in doubt. The greatest threat of extinction surely comes from** the **prolif**eration of weapons of mass destruction. America should refocus her foreign policy to prioritize protecting us all from atomic, biological, and chemical weapons.

## Framework Answers

Devolves to minimizing extinction.

1. The primary purpose of the state is to provide for the general welfare. That’s the preamble to the constitution which frames all further obligations.

2. The nature of all beings is to exist, and extinction precludes that.

3. CJS can’t provide justice to anyone if everyone’s dead from nuclear war.

4. Reject CJS specific warrants. The agents that set CJS policies aren’t the judges themselves. It’s the policymakers.

5. The nature of the US government is to minimize existential risks.

**Abraham Lincoln 64**[[14]](#footnote-14)

I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I can not remember when I did not so think, and feel. And yet I have never understood that the Presidency conferred upon me an unrestricted right to act officially upon this judgment and feeling. It was in the oath I took that I would, to the best of my ability, preserve, protect, and defend the Constitution of the United States. I could not take the office without taking the oath. Nor was it my view that I might take an oath to get power, and break the oath in using the power. I understood, too, that in ordinary civil administration this oath even forbade me to practically indulge my primary abstract judgment on the moral question of slavery. I had publicly declared this many times, and in many ways. And I aver that, to this day, I have done no official act in mere deference to my abstract judgment and feeling on slavery. I did understand however, that **my oath to preserve the constitution** to the best of my ability, **imposed upon me the duty of preserving**, by every indispensabale means, that government — **that nation — of which that constitution was** the organic **law.** Was it possible to lose the nation, and yet preserve the constitution? By general law life and limb must be protected; yet often **a limb must be amputated to save a life;** but a life is never wisely given to save a limb. I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the constitution, through the preservation of the nation. Right or wrong, I assumed this ground, and now avow it. **I could not** feel that, to the best of my ability, I had even tried to **preserve the constitution, if**, to save slavery, or any minor matter, **I should permit the wreck of** government, **country, and Constitution all together.**

## Overcrowding Turns

No uniqueness. Crime Low Now; Empirics Prove Long-Term Decline. **Frieden 12**:[[15]](#footnote-15)

**Violent crime in the U**nited **S**tates **fell for the fifth consecutive year in 2011** with murder, rape and robbery all going down, although crime remains a serious problem in many urban areas, the FBI said on Monday. The report of all crimes reported to police nationwide showed slightly more than 1.2 million violent incidents nationwide, while **property crimes hit a nine-year low**. Compared with 2010, the **new figures show** **violent crime down 3.8 percent** overall. **Property crime** was **down 0.5** percent. Among violent incidents reported to police, **murders were down** about 0**.7 percent**, **robberies dropped 4 percent,** **aggravated assaults declined 3.9 percent**, **and forcible rapes were down 2.5 percent.**

TURN Rehab demoralizes prison officers which undermines humane prison conditions. Retribution is key. **Logan and Gaes 93** write[[16]](#footnote-16)

As agents of governmental authority, prison officers must understand that they are obliged to operate within rigid constraints. They ensure that justice is done, first and foremost, by following the rules that define the parametars of justice, the rules that determine what is too permissive and what is too harsh. If inmates are treated unfairly inside prison, they will find it hard to appreciate that it is fair for them to be in prison in the first place. To accept the justice of their punishment, inmates must understand that it is principled, not malicious. Prison officers, as representatives of society, must convey that message to them through their demeanor. First, however, prison officials, and officers must accept without apology the fact that they are among society's "ministers of justice." Think about it: isn't that a more admirable mission than being a "correctional officer?" **Prison officers deserve a more favorable image as agents of punishment.** The most negative result of emphasizing **rehab**ilitation is that almost **inevitably** it **demoralizes** security and custody **staff members** who **are portrayed** (if only by implication) **as less professional and** less **humane than** the treatment and **program staff. It** also **impugns** the most important **purposes of imprisonment–**justice, **punishment, and security–by portraying them as uninspiring**, if not morally inferior. **Prison professionals need to understand**, to be reminded often, and to help the public appreciate that the job of confining and controlling an unwilling population without violating rights, the job of **treating inmates** "firmly but **fairly," is** every bit **as praiseworthy as** the pursuit of **rehab**ilitation, if not more so.

## Crime Turns

1. Reject meta-analyses. They’re biased for rehab – 2 reasons.

**Logan and Gaes 93** write[[17]](#footnote-17)

Separately, **studies like these** are perfectly legitimate, but they do not prove anything. They **are tautological;** they explain their results with after-the-fact hypotheses but do not test those explanations. **What**, then, **if a meta-analysis** of 100 studies **finds**, **a significant relation** between “risk” or “responsivity” or “needs,” on the one hand, and treatment effect, on the other? Could this metas-analysis be regarded as confirmatory--a summary of replications? Not necessarily. If the operational definitions of "risk" and "responsivity" and "needs" (the predictor variables) differ from study to study, we will learn nothing from a meta-analysis showing that treatment effect depends on these factors. Even if "risk" always were based, say, on prior record, at least two problems still could exist. **First, the criterion** of how long or how serious a record had to be in order to be "risky" still **could be defined differently, and ex post facto, for each study**; thus "risk" still would be tautological. **Second, researchers** typically **do not report all** the **interactions** they test; they tend to report **only those that make a difference. Thus** most of the **neg**ative **evidence** showing that treatment effects do not vary by level of risk **goes unreported. A bias is** thereby **created in favor of** the conclusion that **treatment** works, if only for cases in which risk makes a difference and therefore is reported.

2. Meta-meta-analyses that correct for the bias of individual meta-analyses conclude neg. **Wright 95** writes[[18]](#footnote-18)

Elsewhere **I have noted a variety of shortcomings in** the four **metaevaluations** that support the effectiveness of treatment (Wright 1994b; also see Lab and Whitehead 1990). To reach her optimistic conclusions, for example, **Garrett** (1985) **places great importance on** studies that use **outcome measures other than recidivism** rates. "Among the 34 studies in her metaevaluation that relied on recidivism rates as an outcome measure, treatment programs were found to produce virtually no benefits" (Wright 1994b:32). Although **Gendreau and Ross** (1979, 1987) rely mostly on recidivism rates as their outcome measure for demonstrating effectiveness of programs, they can be criticized for tending "to **see success where** many of **the rest** of us might **see failure"** (Wright 1994b:33). In their recent assessment of the effectiveness of offender diversion programs, for example, Gendreau and Ross (1987:357) conclude that "diversion can work," even though **only two** (16.7%) **of the 12 studies they review support this** position. **In an extensive survey of the metaevaluation evidence, I sided with the skeptics**, concluding that "there simply is no compelling evidence to suggest that rehabilitation programs ... show much promise for reducing the recidivism rates among criminal offenders" (Wright 1994b:36). In a more charitable assessment, however, the research evidence at this point may be inconclusive and the metaevaluation debate may have ended in a draw; some studies show the failure of treatment programs, while others report modest signs of success. **One cannot conclude that rehab**ilitation **programs are** largely **effective**; this position is taken in many of the most recent criminology textbooks.

3. TURN – Most recent empirics prove rehab increases crime. Your meta-analyses don’t account for this study. **Lukenbill 10** writes[[19]](#footnote-19)

**Another recent** evaluation of a **major reentry effort making things worse: the S**erious and **V**iolent **O**ffender **R**eentry **I**nitiative, **funded at $100 million dollars**, which worked with criminals inside of prison and out, showed that results for the adult males revealed that the program actually made the problem worse. **“Cumulative rearrest rates were calculated** for 3, 6, 9, 12, 15, 21, and 24 months after release. SVORI program participants were less likely to have an officially recorded rearrest during the 24-month period after release. The differences were small and not significant for the men. … **By 24 months** post-release, **the** reincarceration **rate for** adult male SVORI program **participants was** about **8% higher** than the non-SVORI rate (42%, as opposed to 39%)” (p. 125)

4. TURN – Personal testimony proves that rehab fails. Studies are wrong. The books are cooked. **Del Rosario 10**[[20]](#footnote-20)

**Jose Cortez, a[n]** recently-released **inmate** who served five months in Tehachapi State Prison in California, recalled the prison rehabilitation programs there: “We had classes for anger management, substance abuse, one for sexual predators, and others. The problem was that you had to sign up for them and there was a long waiting list. I was in there for five months and I never got entry into the substance abuse class.” Cortez, 23, is a rare exception to rehabilitation. Currently back in El Paso, he attributes his recovery to the strong support he has from his family. He **says** that a large part of **recidivism lies in** certain **factors** of prisoners’ lives **that the justice system can do very little**, if anything, **to control.** He refers to an anxiety of living a “normal life,” saying, “You try and go back to society and you get tired of the same thing. You find the easy way out. You make $1,500 selling dope. When you get out, there’s no luck finding a job.” Many prisoners, upon release, have no other choice but to return back to where they were before being incarcerated: the same environment, the same people, the same habits. During my tour of the Sanchez Unit, two prisoners acted as my and Lt. Quidachay’s chaperones. These men are his “gophers,” his right-hand men with the official title of “Special Support Inmates.” I was not allowed to ask their names or what they were in for. One of them did not speak English very well and kept quiet, while the other provided a consistent view of a prisoner’s reality with respect to environment: “The irony of the system is that prisoners are better in the system than when they’re out in society. It’s a controlled environment in here. Here, they’re healthier and drug-free.” Perhaps a counter-irony to that point is the perpetuation of gang life in prisons. “Some people join gangs because they need protection due to the crime they committed, some are snitches,” says Cortez of his experience with gangs in prison. Cortez, himself, is not gang-affiliated, but did get to know the workings of gangs from his time in prison. **“When you get out, you still have to do the gangs favors.** There’s communication within gangs inside and outside. You work for them until they say it’s over,” he says. According to Lt. Quidachay, there are 12 major gangs that the state of Texas deems as “security threats” and are monitored by the in-house Security Threat Group. These gangs include the Barrio Aztecas, Texas Syndicates, the Aryan Circle, and the Bloods among others. There are also lesser-monitored gangs, known in the Sanchez Unit as “clikas,” that consist of people brought together by region of origin. Lt. Quidachay estimates that “a good 75% of gang members will be back.” He also estimates that there should be about 15 to 20 new gang members who join in the Sanchez Unit annually. The prison environment, in addition to gang life, seems to generally affect prisoners negatively. “It’s a vicious circle. We have officers provoking the offenders and offenders provoking the officers. It just makes for a stressful environment,” says the Special Support Inmate. The first department I was taken on my tour was where they assigned incoming inmates their cells. Every inmate’s information was on a label that was put in a plastic keychain that was either white (Caucasians), blue (African-American), or orange (Hispanic). They do not simply assign inmates to rooms randomly. This is a security measure. “When you go to school, they teach you to tolerate people of all kinds,” says the SSI. “In jail, there’s no tolerance. There’s no diversity.” Cortez cites exposure to those knowledgeable to crime as another downfall of the prison environment’s supposed rehabilitative efforts. “You go in there with an Associate’s Degree in Crime and you leave with a Doctorate,” he says. “You learn a lot of crazy things in there. I’m not saying you end up doing them, but it’s in your head. You’re in there with the worst of the worst, and you learn from the best.” Outside the prisons walls, the world of prisoners on parole does not do much for rehabilitation either. Certainly, state-mandated **rehab**ilitation **programs are attended, but** the programs’ **efficiencies are hard to measure. “I’m ordered to go to AA three times a week,”** says Cortez. **“Most** of us **don’t go** because we really want to. **Lots** of them **go in the last 10 minutes** to have a piece of paper signed **to show their parole officer.”** “Speaking of parole officers, rehabilitation becomes a checklist,” says Dr. Theodore Curry, Associate Professor of Sociology at the University of Texas at El Paso, who teaches Criminology and conducts research in deviance, crime, and social control. “This checklist is not rehabilitation, it’s security.” The futility of rehabilitation in the justice system is a burden on taxpayers and the communities that departments of corrections and safety aim to keep safe. “Some criminals are just not interested in changing,” says Dr. Curry. “This does not make them good candidates, which makes rehabilitation programs a waste of time, money and effort.” “There is no rehabilitation,” says the SSI. “For some of these prisoners, their backgrounds are so engrained in them.” Most experts knowledgable with crime agree that the American justice system has been reduced to a gratuitously expensive system of punishment. Inefficiencies in funding have brought the responsibility of criminal justice to the private sector with the creation of private prisons. But to presume that privatizing prisons will make rehabilitation more effective is putting trust in the elusive Free Market to solve a problem as urgent and pervasive as crime. Public or private, the system merely prescribes momentary relief to the disease of punishment rather than curing it. Punishment is perspective, not change. “Change: it’s got to come from within,” says Detective Armando Fonseca, retired El Paso police officer, now working as a detective with the UTEP Police Department. “It’s having the want.”

5. Retribution solves best. Prop 8 proves – best controls for variables.

**Francis 08** writes[[21]](#footnote-21)

**California's Prop**osition **8**. Passed by popular referendum in 1982, this law **requires courts to lengthen the sentence of repeat offenders** in cases of willful homicide, forcible rape, robbery, aggravated assault with a firearm, and burglary of a residence. Kessler and Levitt find that the law requiring longer sentences has been effective in lowering crime. **Within** three years, crimes covered by the law fell an estimated 8 percent. **Seven years** after the law changed, these **crimes were down 20 percent.** In order to obtain these estimates, the authors collected data on crimes covered by Proposition 8 and on a set of crimes that was exempted from the law (burglary of a non-residence, aggravated assault without a firearm, simple assault, and larceny). **By comparing** California's **crime rates** for these two sets of crimes **before and after Prop**osition **8 to** rates in **the rest of the nation, they can isolate any causal effect of the law change.** Prior to the passage of Proposition 8, California's experience with the two sets of crimes mirrored that of the United States as a whole. Immediately after the law changed, crimes covered by Proposition 8 fell in California compared to the rest of the nation. Crimes not eligible under Proposition 8, however, showed no such pattern. The timing of the declines in crime also sheds light on the reasons why crime fell. The primary effect of Proposition 8 was to increase the sentence length of criminals who would have gone to prison even without the law. Thus, for the first few years after the law changed, it had no impact on the size of the prison population: everyone affected by the law would have been behind bars anyway. The authors argue that the immediate decreases in crime -- roughly half of the overall decline -- therefore must be attributable to deterrence. **Criminals, fearing** the **harsh**er **sentences** that awaited them, **reduced** their illegal **activity.** The fact that the impact of the law's change continued to grow steadily over time suggests that incapacitation also helped to reduce crime. Because convicted criminals were serving longer sentences, years after the law's change **they were still locked up, rather than** out on the streets **committing crime.** The results of this study are particularly relevant to the spread of "three-strikes laws" which entail extremely long sentences upon a third conviction of a crime. If criminals are effectively deterred by such laws, then it is possible that both the amount of crime and the number of prisoners can decline.

6. Aff studies fail – funding bias. **Farabee 5** writes[[22]](#footnote-22)

Opportunities abound to impinge on what is assumed to be the scientific process of evaluating offender rehabilitation programs and accurately reporting their results. In some cases, the resulting bias is unintentional, but often it occurs because of pressures exerted upon researchers that predispose them to deliver findings in support of a particular position. Two sources of such bias relate to dominant fixtures in the lives of academic researchers: funding and publishing. Funding-Related Bias. Conducting a **large-scale** outcome **evaluation of** a correctional **rehab**ilitation program **is** an enormous—and **costly**—undertaking. For statistical reasons (based on samplesize calculations that help ensure the study will be sensitive enough to detect a moderate effect of treatment should there be one), such an evaluation requires there be several hundred subjects in the treatment group and several hundred more in the comparison group. Because official records cannot adequately capture certain behaviors such as pre- and post-prison employment, drug use, or criminal activity, the subjects must be interviewed by trained interviewers. These interviews typically take place prior to program participation, and again at discharge. Next, since the ultimate goal of these programs is to reduce subsequent criminality, these same subjects must be tracked for at least one year after release and reinterviewed. At this point, since self-reported accounts of sensitive (and often illegal) behaviors cannot be assumed to tell the whole story, objective measures must also be collected, such as urine specimens, hair samples, RESEARCH METHODS 17arrest records, returns to custody, and so on. Now, two or three years after the study began, the analysis of the outcome data can commence. It is no surprise, then, that **most** of the prominent evaluations in this field **rely on funding from state** or federal **agencies** or, in some cases, large foundations. Often, the same agencies or organizations **that** fund the evaluation **also fund**ed **the project** being **evaluated. The stakes are high and**, for obvious reasons, they are also **personal.** Politicians have hazarded their careers on providing favorable results—and **researchers are expected to deliver** them. In one case, as my colleagues and I began an evaluation of a statewide treatment initiative for substance-abusing prisoners, the governor at the time told us, “I know treatment works; what I need you people to do is prove that it works!” For researchers whose sole support is derived from extramural grants and contracts, the subtle (or in some cases not-so-subtle) preferences of the funding source are difficult to ignore.

7. There’s a publishing bias, too. **Farabee 5** writes[[23]](#footnote-23)

Publication-Related Bias. Most of us have heard the expression “Publish or perish!” with reference to the mandate of academics. It is an accurate description. Not only do universities use the number and quality of journal publications as a yardstick to determine academic salaries and promotions, but funding agencies also focus on publications as a means of quantifying the productivity of prospective grantees. The emphasis on publications has its advantages. Many projects have been funded to researchers who collected the data and produced nothing. In the university setting, publications demonstrate that the researcher is making contributions to the field. And, because most journals are subject to a “blind” peer-review process, the number of articles that are actually published says something about the quality of the researcher’s work as well.

But the publication process has one very important drawback— an obsession with significance. I am, of course, referring to statistical significance, which bears no relationship to “meaningfulness.” Let us imagine that we are testing the effectiveness of a new 18 RETHINKING REHABILITATIONallergy medication. As one of the outcomes, subjects in the experimental and placebo groups are asked to rate their symptoms on a seven-point scale, with one representing no allergy symptoms and seven representing severe symptoms. With a large enough sample size, a half-point difference on this scale could be statistically significant, but at the same time clinically irrelevant. The converse could also occur, where seemingly large differences between the experimental and placebo groups do not meet the threshold for statistical significance. Nevertheless, **studies demonstrating** statistical **significance are significantly more likely to be published** than those that do not. And so, in the field of offender rehabilitation, the multitude of studies that show no significant effect of these programs are never seen. The preference given to studies with statistically significant findings is in many ways defensible. Statistical significance can serve as a filter for poorly designed studies, or erroneous hypotheses, that out of sheer luck appear to reveal a trend. But the published studies are those that form the research literature, and this literature is what (ideally) informs policy. It is at this level that the problem with significance becomes clear. **If researchers must publish** in order **not to perish,** and it is far easier to publish significant findings than nonsignificant ones, how should they deal with the results of an ineffective program—one in which there was no statistically significant difference between the treatment and comparison groups? One way to find significance is to go mining. Recall Martinson’s frustration with the state of the research he reviewed in the 1970s, and how the same problems were identified in reviews conducted a quarter of a century later. Researchers who did not find a significant difference after comparing the treatment group with the nontreatment group simply went on to make further comparisons that were unplanned and unjustified—**they “drill**ed **down” to smaller and smaller subgroups until they** could **find a significant effect.** If the program participants did no better than the comparison group of inmates who did not participate in the program, the researchers might ask, how did they compare to those who were kicked out of RESEARCH METHODS 19the program or to those who refused to enter the program in the first place? Or, how did the program participants who completed the program and volunteered to continue in an aftercare program while on parole compare to those who dropped out? Even if the program being evaluated were ineffective, we would expect these atypical subsets of prisoners to perform better after they left prison than those who had been “weeded out” along the way. These **data-mining techniques are common in the** correctional **treatment field**, and they misrepresent how well (or poorly) a program has actually performed. It is an approach that capitalizes on self-selection, in which the treatment group is pared down to the most amenable 10–20 percent of the original group while the comparison group is left intact. But now the researchers have a publishable study—one that lends further support to the nebulous claim that “this program appears to be effective for some offenders some of the time, under certain conditions.” It is important to keep in mind that treatment dollars are still being spent on the remaining majority of ignored treatment participants who did not complete treatment and enter and complete voluntary aftercare. Thus, it appears that some of the studies in this field—whether by implication or inference—have inflated expectations for the majority by emphasizing the outcomes of a self-selected few.

8. Reject meta-analysis. They’re watered down by bad studies. **Pratt 10** writes[[24]](#footnote-24)

**The** second potential **problem, which tends to be** the **more serious** of the two, **is that well-done studies may be included with studies using less rigorous** methodological **designs** (i.e., what is referred to as the "apples and oranges" problem), **which** may **bias the overall** effect size estimates of the **analysis** (Cohen 1977). The primary mechanism for minimizing this problem is to code each empirical study for methodological variations that could influence the effect size estimate(s) (e.g., see Glass, McGaw, and Smith 1981; Pratt 2002). Doing so is especially important when integrating the results of studies using correlational research designs. Statistical control, as opposed to experimental control, is typically used to assess key theoretical relationships in correlational designs (and in most criminal justice and criminological research). In turn, **estimates** of effect size from correlational designs **may be contingent**, at least in part, **on which variables are used as** statistical **controls**, on the composition of the sample, and on how theoretical variables are measured. Thus, controlling statistically such methodological variations across empirical studies becomes necessary for calculating valid and reliable mean effect size estimates.

9. There’s also a self-selection bias. **Farabee 5** writes[[25]](#footnote-25)

Many of the **studies** in Martinson’s review **that reported positive results**—that is, reductions in recidivism—were based on subsets of the experimental group, such as those who successfully completed the program (versus untreated offenders and dropouts), or those rated as “amenable” to treatment (versus untreated offenders and those receiving treatment but deemed “unamenable”). In other words, the studies **only evaluated** outcomes for what could be called the “cream of the crop”—**offenders** who were **motivated** and persistent **enough to complete treatment**—while ignoring the offenders for whom the treatment had been ineffective. Moreover, in the majority of these cases, Martinson found that when these others were not removed from the experimental group, the putative effects of treatment disappeared. Martinson went so far as to say, “It is possible that some of our treatment programs are working to some extent, but that our research is so bad that it is incapable of telling” (Martinson 1974, 49).Unfortunately, as the protreatment rhetoric has steadily regained its intensity over the thirty years since Martinson published his grim appraisal, the quality of the research on which it is based has not. A subsequent review of correctional treatment research examined studies conducted from 1968 through 1996. All were coded for research quality, ranging from one (poor) to four (excellent). Regarding the effectiveness of therapeutic communities, boot camps, and drug-focused group counseling in reducing recidivism, the authors reported a moderate effect for therapeutic communities and nonsignificant effects for the other two interventions (Pearson and Lipton 1999). However, the validity of these findings is challenged by the quality of the evaluations that produced them. None of the studies reviewed earned an “excellent” rating. All of the boot camp studies were rated “poor.” Of the seven therapeutic community evaluations, one was rated “good,” three “fair,” and three “poor.” Of the seven studies of drug-focused group counseling, five were rated “fair” and two “poor.” Not long afterward, a report issued by the National Research Council regarding the literature on correctional drug abuse treatment concluded, A number of studies of prison-based programs seem to demonstrate positive post-release outcomes, including reductions in drug use and crime along with improvements in employment, when inmates who have gone through prison treatment are compared with those who have not. . . . However, research conducted to date has not yet convincingly demonstrated the effectiveness of prison treatment programs. Even in studies that find a significant relationship between completion of a treatment program and post-release outcomes, the overall positive effect is attenuated by inconsistent findings. Moreover, **positive** treatment **outcomes may be** attributable to **selection bias** (e.g., the high level of commitment of offenders who completed the program rather than the capacity of the program to change their behavior). (Manski, Pepper, and Petrie 2001, 8.16) Methodological Shortcomings in Correctional Treatment Studies One reason for the lack of rigor among correctional treatment studies is that they occur in the “real world.” In the natural sciences—and even in the social sciences—studies can be designed that control for possible confounding influences so the researcher can state with relative certainty that differences between the experimental and control groups are indeed the result of the intervention. The sine qua non of these studies is the randomized design, in which subjects are randomly assigned to an experimental or control group. Given a sufficient sample size, it can be assumed that the two groups are identical. Thus, any differences in outcomes that occur can be confidently attributed to the effects of the treatment. Unfortunately, **field-based evaluations** of actual treatment programs are rarely implemented with such controls. Evaluators in correctional settings typically **have little say in how** the **inmates are selected** to participate in a treatment program or how the program is actually carried out. Furthermore, it is commonly argued that randomly assigning one group of offenders to receive treatment while denying it to another is unethical. This, of course, assumes that the program is beneficial. The **reluctance to use random assignment** in the evaluation of offender rehabilitation programs, though understandable, **reflects** the pervasive **a priori belief** in the field **that these programs are** inherently **effective.** By contrast, clinical trials to develop medications routinely employ random assignment on the basis that without conducting such a rigorous comparison the effectiveness of the medication cannot be established. As a result of the cultural bias against withholding the presumed benefits of social programs from offenders, correctional program evaluators are typically forced to rely on quasi-experimental research designs, such as comparing those who participated in a program with those who refused to participate. Many studies fail to include any comparison group and simply report the outcomes for those receiving treatment. In the end, it is the offenders—and taxpayers—who pay the price of ineffective programs being allowed to flourish in the absence of empirical scrutiny.

10. TURN – Rehab increases crime. Analytics and best empirics prove.

**Farabee 5**[[26]](#footnote-26)

Yes. Over the past decade, hundreds of correctional programs (adult and juvenile) in North America have been assessed using the Correctional Program Assessment Inventory (CPAI). The CPAI is designed to measure how closely a correctional rehabilitation program adheres to generally accepted principles of effective treatment in terms of implementation, client screening and assessment, types of treatment offered, staff training, quality assurances, and so forth. Recently, Gendreau, Goggin, and Smith (2001) summarized the overall findings of **the three largest** CPAI **surveys**. The researchers **found that** “while some excellent individual programs were discovered through these surveys, the blunt truth is that **70 percent of all programs ‘failed’** according to the CPAI.” Some particularly telling examples of specific program deficits included low intensity (frequency) of treatment, with some programs only taking place several hours per week; emphasis on factors that have not been shown to predict or cause crime, such as self-esteem, 38 RETHINKING REHABILITATIONdepression, or anxiety; and staff who were hired with no relevant experience or training, with most lacking a university degree. Rehabilitation programs that target characteristics that do not cause crime and operate at low intensity with poorly trained staff cannot be expected to have a lasting, positive impact on the offenders who pass through them. And they don’t. But somehow the expectations remain high. Another factor to consider is that prisons are exceedingly difficult places in which to provide treatment. A decade ago, two researchers associated with the Federal Bureau of Prisons recognized this problem and tried to make the case for a “confinement model” of incarceration, suggesting that rehabilitation be dropped as the primary goal of imprisonment (Logan and Gaes 1993). Instead, the researchers argued, “the mission of a prison is to keep prisoners—to keep them in, keep them safe, keep them in line, keep them healthy, and keep them busy—and to do it with fairness, without undue suffering, and as efficiently as possible.” Accordingly, programs should be allowed insofar as they do not interfere with this proposed mission of imprisonment, with the justification that they keep inmates engaged in constructive activities and, therefore, facilitate prison management. These researchers candidly stated, Prisons ought not to impose upon themselves . . . any responsibility for inmates’ future conduct, welfare, or social adjustment. These are primarily the responsibility of the offenders themselves, and perhaps secondarily a concern of some others outside the criminal justice system. (Logan and Gaes 1993, 261) Just as an overemphasis on rehabilitation distracts prisons from performing their role of protecting us from prisoners and the prisoners from each other, the circumstances of incarceration can also interfere with treatment. Based on a review of prison-based substance abuse programs in the United States, my colleagues and I (Farabee et al. 1999) identified several common implementation issues for developing programs in correctional settings: WHY DON’T THESE PROGRAMS WORK BETTER? 39• Client identification and referral. In most prison systems, determining who gets what kind of rehabilitative programming is not a scientific process. Some type of program participation is commonly mandated for all offenders or, in many cases, the need for treatment is determined by the absence of any other useful purpose the inmates might serve. In the latter case, many programs are only available to those whose custody levels preclude them from performing grounds maintenance, doing low-level desk jobs or janitorial tasks, or holding other jobs. **Comprehensive screening** and assessment **to determine who** actually **needs what** kind of **treatment is rare.** • Recruitment and training of treatment staff.As pointed out by Gendreau, Goggin, and Smith (2001), **hiring and retaining qualified treatment staff is a challenge** for most prison-based programs. This is largely a function of low wages, but it also occurs because prisons tend to be established in remote, rural areas where land is cheap and community resistance is low. As a result, the viable labor pool is often limited. • Redeployment of correctional staff. Evaluations of community-based offender treatment programs suggest that **staff turnover undermines program stability and effectiveness** and is especially destructive when it occurs among senior staff and in newer programs (Harland, Warren, and Brown 1979; Petersilia 1990). Although turnover among correctional staff is not unique to prisonbased treatment programs, the fact that it occurs by design is. Professional advancement for correctional officers typically requires frequent transfers to different yards or institutions. This lack of continuity affects the stability of the treatment environment. 40 RETHINKING REHABILITATIONWHY DON’T THESE PROGRAMS WORK BETTER? 41 • Coercion. Although not all participation in correctionsbased treatment is involuntary, coercion undoubtedly plays a role in most prison treatment admissions. Much of the growth in criminal justice treatment is based on the widely accepted dictum that involuntary clients tend to do as well as, or better than, voluntary clients (Leukefeld and Tims 1988; Simpson and Friend 1988). While it has been demonstrated that clients referred to community-based treatment through the criminal justice system remain in treatment longer than those not referred (Collins and Allison 1983; Leukefeld 1988), the long-term implications of external versus internal motivation as they relate to treatment outcomes are still unclear (Gerstein and Harwood 1990; Wild, Roberts, and Cooper 2002). Unfortunately, the research literature regarding the effectiveness of coerced treatment offers little guidance. A recent review revealed considerable variation in findings, most of which could be attributed to inconsistent methodologies, including different program types, outcome measures, and measures of legal involvement or coercion (Farabee, Prendergast, and Anglin 1998). Furthermore, none of these studies assessed the clients’ perception of coerced or voluntary status. Rather, involuntary status was typically inferred from the client’s criminal justice status at the time of treatment admission. The result is a lack of data comparing treatment effectiveness of involuntary and voluntary clients in the criminal justice system. • Aftercare. Although few clinicians or researchers challenge the importance of providing aftercare services to parolees, several elements in the criminal justicesystem temper the effectiveness of these sessions. First, **since many** prison-based clients **enter treatment involuntarily, only a minority** volunteer to **continue once** they are **no longer required** to do so. **Even those who do enter** a program may **leave early.** Second, many community-based providers are reluctant to admit parolees—particularly those with violent or sex offender statuses. And third, there is limited control over the type and quality of treatment available in a parolee’s county of residence, making it difficult to ensure a continuum of care consistent with his or her in-prison treatment model. Perhaps for these reasons, prison programs tend to be of lower quality than similar programs in the community. Indeed, a recent comparison of community- and prison-based substance abuse programs found that prison-based programs were of lower overall quality than their community-based counterparts. Moreover, a follow-up comparison three years later revealed that while the community-based programs tended to improve over time, the prison-based programs actually declined in quality (Latessa and Pealer 2002).

11. Don’t prefer meta-analysis. It’s less accurate. **Logan and Gaes 93** write[[27]](#footnote-27)

**Meta-analysis** is a legitimate research tool, but **is easy to misuse.** To be sure, meta-analysts are not deconstructionists who merely read into the literature whatever they please, but **their technique imposes such demanding methodological requirements** (Hedges and Olkin 1985) **that it is difficult to conduct a meta-analysis which controls** and adjusts **for errors** in the primary studies **without introducing new errors and biases of its own.** It is not surprising, then, that **separate reviews and meta-analyses** of research on the effectiveness **of** correctional **rehab**ilitation programs reach differing conclusions and **criticize each other's validity** (Andrews et al. 1990a, 1990b; Lab and Whitehead 1990).

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